

REMARKS

The present Supplemental Response to Office Action is being filed in response to the Examiner's suggestion during a recent telephone interview and/or is a bona fide attempt to advance the application to allowance. In this Supplemental Response, claims 2, 19, 20, and 24 have been amended, and new claims 26-29 have been added. In addition, detailed arguments in support of patentability are presented. Reexamination and/or reconsideration of the application as amended are respectfully requested.

Interview Summary

A telephone interview was held with Examiner Gary Hartmann on or about January 7, 2009 in connection with the subject patent application. During the interview, no exhibits were shown nor were any demonstrations conducted. The claims discussed were the elected independent claims, i.e., claims 2, 19, 20, and 24. In particular, these claims were discussed in view of the Examiner's two primary references, i.e., Greenwood (U.S. Patent No. 3,808,757) and Gordon (U.S. Patent No. 5,740,575). It was argued on behalf of Applicant that Greenwood discloses a leg 44 including a fixed upper part 44a received in a socket 42 and a movable lower part 44b telescopingly received in the upper part 44a, and argued that an angled support brace or strut 56 is fixedly connected only to the fixed upper part 44a. Applicant further argued that such an arrangement did not meet the limitation of the independent claims calling for the prefabricated movable member to have an extension, particularly when the prefabricated movable member is recited as being locatable at predetermined longitudinal positions relative to an elongate member. The Examiner accepted this argument and indicated that he would withdraw his rejection against the claims under Greenwood. The Examiner understood that he was precluded from using the upper part 44a as the recited movable member because it is fixed in a single position relative to the socket 42 (and thus is not movable to a plurality of positions), and also understood that he could not use the lower part 44b as a movable member because this piece fails to have or include the strut 56.

No agreement was reached with respect to the Examiner's rejections over

Gordon. The Examiner indicated that he believed the current wording of the claims was insufficient to overcome his rejections over Gordon. The Examiner suggested a supplemental response be filed (i.e., this paper) and the claims further amended to more explicitly differentiate over Gordon.

Rejoinder of Dependent Claims 3-8 and 10-16

As indicated in Applicant's previous response, claims 3, 7, and 10 were previously amended such that these claims each depend from elected claim 2. As a result, Applicant continues to respectfully request that claims 3-8 and 10-16 be rejoined with the elected claims of Group II.

**Claims Distinguish Patentably
Over the Reference(s) of Record**

Independent **claims 2, 19, 20, and 24**, as amended, call for an engagement between a prefabricated movable member and an elongate member retaining the prefabricated movable member to the elongate member while allowing longitudinal movement of the prefabricated movable member relative to the elongate member. In addition, as previously pointed out, the independent claims also require the prefabricated movable member to have an extension arranged to directly support a deck laterally of the elongate member by contact with an underneath surface of the deck. Applicant respectfully submits that Gordon fails to disclose or fairly suggest such an arrangement.

In particular, Gordon discloses rails 70 or 72 secured to posts 60 via bolts 73. There is no engagement between the rails 70 or 72 and the posts 60 that retains the rails to the post while allowing longitudinal movement of the rails relative to the posts. In other words, when the rails 70 or 72 are retained to the posts 60 by the bolts 73, no longitudinal movement of the rails is allowed relative to the posts 60. When the bolts 73 are removed and longitudinal movement of the rails 70 or 72 is permitted relative to the posts 60, there is no retention of the rails to the posts. Moreover, the bolts 73, which the Examiner indicated in his last Office Action were the recited prefabricated movable members, in no way have the rails 70, 72 as required by the claims.

Accordingly, for at least the foregoing reasons, it is respectfully submitted that the subject application is in condition for allowance.

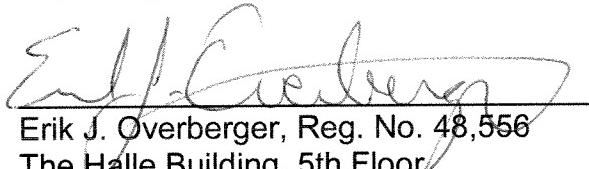
New claims 26-29 have been added. The new claims call for a locating pin, such as for locating the prefabricated movable member relative to the elongate member at one of the predetermined longitudinal positions and thereby prevent longitudinal movement of the prefabricated movable member relative to the elongate member. In the Examiner's rejection of the independent claims over Gordon, the Examiner uses the bolt 73 as the prefabricated movable member. It is respectfully submitted that there is no prefabricated movable member, as recited in the claims, and a locating pin taught or fairly suggested in Gordon.

CONCLUSION

All formal and informal matters having been addressed, it is respectfully submitted that this application is in condition for allowance. It is believed that the claim changes clearly place the application in condition for allowance, defining over any fair teaching attributable to the references of record. Alternatively, if the Examiner is of the view that the application is not in clear condition for allowance, it is requested that the Examiner telephone the undersigned for purposes of conducting a telephone interview to resolve any outstanding differences. Accordingly, an early notice of allowance is earnestly solicited.

Respectfully submitted,

Fay Sharpe LLP



January 23, 2009
Date

Erik J. Overberger, Reg. No. 48,556
The Halle Building, 5th Floor
1228 Euclid Avenue
Cleveland, Ohio 44115-1843
216.363.9000

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence (and any item referred to herein as being attached or enclosed) is (are) being

- deposited with the United States Postal Service as First Class Mail, addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.
- transmitted to the USPTO by electronic transmission via EFS-Web on the date indicated below.

Express Mail Label No.:	Signature: 
Date: January 23, 2009	Name: Barbara Brazier